IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.155 OF 2006

The Chairman, Khadi & Village
Industries Commission .. Applicant

versus

Mr.Roozbeh Mundegar Aga .. Respondent

...

Mr.S.S. Dube for the applicant.

Mr.V.Y. Sanglikar for the respondent.

CORAM : D.G. KARNIK, J

DATED : 30th August 2006.

P.C.:

1. Heard the counsel for the parties.

2. By this petition, the appellant challenges the judgement and decree dated 23rd January 2006 for eviction passed against him in appeal no.240 of 2005.

3. The respondent landlord filed a suit for

possession against the appellant in the Small Causes Court, Mumbai. The trial court dismissed the suit holding that the appellant was protected as a tenant and was not an exempted person under Maharshtra Rent Control Act 1999. The appellate court reversed finding and held that the provisions of the Maharashtra Rent Control Act 1999 (for short 'the Act') were not applicable to the appellant by reason of section 3 of the Act. The appellate court further held that lease was over, the appellant was not entitled to remain in possession and passed a decree for possession.

4. Learned counsel for the appellant submitted that appellant is not a Corporation but is a Commission constituted under the Act of Parliament viz. The Khadi and Village Industries Commission Act. He therefore submitted that provisions of the Act Act were applicable and no decree of eviction could be passed except on any of the grounds specified under the Act. In order to consider whether the Act applies to the premises let out to the appellant, it is necessary to consider sections 3 of the Act which reads as under :-

(3)(1) This Act shall not apply

(a) to any premises belonging to

> the Government or a local authority to any tenancy, licence or other like relationship created by a grant from or a licence given by the Government in respect of premises requisitioned or taken on lease or on licence by the Government, including any premises taken on behalf of the Government on the basis of tenancy or of licence or other like relationship by, or in the name of any officer subordinate to the Government authorised in this behalf; but it shall apply in respect of premises let, or given on licence, to the Government or a local authority or taken on behalf of the Government on such basis by, or in the name of, such officer;
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> (b) to any premises let or sublet to banks, or any Public Sector Undertakings or any Corporation established by or under any Central or State Act, or foreign missions, international agencies, multinational companies, and private limited companies and public limited companies having a paid up share capital of rupees one crore or more.
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> (2) (Being not relevant is not reproduced)

Under clause (b) of sub-section of section 3 of the Act, the Act does not apply to any premises let or sublet to any Corporation established by or under any Central or State Act. Undoubtedly, the appellant is constituted under the Khadi and Village Industries Commission Act (Central Act 61 of 1956). Counsel however submits that it is a Commission and nor a Corporation. In my view, the submission is without

merit. Sub-section (1) of section 4 of the Khadi & Village Industries Commission reads as follows :-

> (1) With effect from such date as the Central Government may, by notification in the Official Gazette, fix in this behalf, there shall be established a Commission to be called the Khadi and Village Industries Commission which shall be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract, and may by the said name sue and be sued (underlining supplied)

3. Thus, though the appellant is styled as a Commission, it is a body corporate constituted under the Central Act and is a Corporation with perpetual succession used of words such as Commission, Nigam, Ugyog etc. used in the title of the Act or the name of a body would not make the body a non corporate if the body is regarded as a Corporation with perpetual succession and a common seal by the Act creating it. Therefore, in my view the appellant though named as a Commission is a body corporate and therefore a corporation. Consequently, provisions of Maharashtra Rent Control Act are not applicable to it. Thus, there is no merit in the civil revision application which is hereby dismissed.

(D.G. KARNIK, J)